IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8939 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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Versus

STATE OF GUJARAT

Appearance:

MRS SANGITA PAHWA FOR MR PM THAKKAR for PetitionerSs
GOVERNMENT PLEADER for Respondent No. 1
MR PM RAVAL for Respondent No. 2
MR RA MISHRA for Respondent No. 3

CORAM : MR.JUSTICE J.N.BHATT

Date of decision: 21/12/2002

ORAL JUDGEMENT

(Per : MR.JUSTICE J.N.BHATT)

The main challenge in this petition under Article 226 of

the Constitution of India is against the life of select-list for the post of Accounts Clerks prepared in the year 1984, and the petitioners have sought relief that the action of respondent No.1 in cancelling the select list be quashed and set aside.

This matter is very old. In fact, this matter was forming part of group of matters and, unfortunately, it could not be heard and finalised along with the group. During the course of hearing, learned advocate appearing for the petitioners has drawn the attention of this Court to a decision rendered by this Court (Coram: N.J.Pandya, J.) on March 17, 1992 in Special Civil Application No.7308 of 1989 and other allied matters, in which it has been held that the select list prepared in the year 1984 is subsisting. Consequently, observations are, also, made in the said decision of this Court.

It has been submitted on behalf of the petitioners that no fresh process, thereafter, has ever been taken up for recruitment and the same select list is directed to be kept alive until new list is prepared for the purpose of appointment to the said post of Accounts Clerks. It was, also, submitted that the said decision was questioned before the Division Bench in Letters Patent Appeal and the said appeal has been dismissed for default in prosecuting it further. It was, therefore, submitted that the earlier decision has attained finality in so far as direction to treat the said Select List operative until the new list is prepared for recruitment purpose is concerned. Learned advocates appearing for respondents have submitted that 18 years time has elapsed since the time of making of select list for the recruitment to the said post as it was prepared in 1984 pursuant to the advertisement given in the year 1982. Unfortunately, because of long intervening time, they have not been able to say as to what is the subsequent developments and status, qua the recruitment and resultant appointment to the said posts. However, it is contended that since long time has lapsed in between, this petition has lost its efficacy and utility.

Since earlier order of this Court has attained finality in so far as select list of 1984 is concerned and in absence of any further subsequent developments, with regard to recruitment and appointment to the said posts, following observations are not only expedient but imperative:

1. It is true that mere empanelment or placement of name in the select list does not crytalise in any

enforceable right for being appointed and it is for the authority to decide fresh recruitment process in terms of the Government Rules.

2. Fate of the petitioners, like any other candidates who were included in the select list, obviously, shall be the same when direction to keep and make it operative until fresh process of recruitment is undertaken and list, as such is, prepared for the purpose of appointment to the said posts, provided the names of the petitioners are included in the select list of 1984.

3. Undoubtedly, it will be for the respondent authority to take appropriate and requisite steps and actions for the purpose of recruitment to the posts in accordance with rules in this behalf.

In view of the aforesaid facts and circumstances and the observations, this petition shall stand disposed of accordingly, with no order as to costs. Subject to the above observations, rule is made absolute to the aforesaid extent.

(J.N.Bhatt, J.)